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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

**LPA-844-2022 (O & M)
Reserved on: 22.10.2024
Pronounced on: 13.11.2024**

BALWINDER SINGH RANCHALAppellant

Versus

STATE OF PUNJAB AND OTHERSRespondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Argued by: Mr. Gaurav Dutta, Advocate
for the appellant.

Mr. Maninder Singh, Sr. DAG, Punjab.

SURESHWAR THAKUR, J.

1. Through the filing of the instant Letter Patent Appeal, the appellant herein prays for quashing of the order dated 12.07.2022, as passed by the learned Single Judge upon **CWP No.4332 of 2016**, titled as “**Balwinder Singh Ranchal Vs. State of Punjab and Others**”, whereby the writ petition filed by the petitioner-appellant became dismissed.

Brief facts of the case.

2. The petitioner joined service in the Air Force on 15.11.1969 and was discharged from service on 01.12.1984. It is averred that petitioner served during the Second National Emergency i.e. from 03.12.1971 to 25.03.1977. After discharge from Air Force, the petitioner was selected as Junior Auditor Local Fund Accounts, Punjab, Gurdaspur Circle on 27.10.1992 and he superannuated on 30.06.2010.

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during the Second National Emergency for the period 03.12.1971 to 26.03.1977, thus in terms of the Punjab Government National Emergency (Concessions) Rules, 1956, towards seniority, increments and pension.

3. It is further averred that the petitioner earlier filed CWP No. 8619 of 2014, which was partly allowed on 13.11.2014, wherein, the petitioner was held entitled to grant of benefits of military service rendered by him during said period, but the said grants were only towards pension, but not towards increments. Pursuant to the passing of the said order, the petitioner's case for grant of pension was again rejected by the department vide order dated 26.11.2015 while holding that since the petitioner is already getting pension for the rendered military service for the period in question, therefore, he is not re-entitled for the benefit of pension for the service rendered during the Second National Emergency. It was specifically mentioned in the impugned order dated 26.11.2015 that the petitioner does not fulfill all the three conditions contained in Rule 8-B (b) of the Punjab Recruitment of Ex-servicemen Rules, 1982 (hereinafter for short called as the 1982 Rules).

4. Feeling dis-satisfied from the afore rejection order, the petitioner filed CWP-4332-2016 before this Court. The said writ petition became dismissed vide order dated 12.07.2022. The operative part of the said order is extracted hereinafter.

It is a matter of record that the petitioner having rendered Military service from 15.11.1969 to 30.11.1984 is in receipt of pension for the said period from Military

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Authorities. He joined civil service after a gap of about eight years on 31.10.1992 and retired from service on 30.06.2010. As petitioner is in receipt of pension for the period in question, his claim for benefit for the period of Second National Emergency qua pension again has been rightly rejected. Reliance on order dated 13.11.2014 in CWP No. 8619 of 2014 is of no avail to the petitioner. The bunch of writ petitions including that of the petitioner was decided by common order dated 26.11.2015 deciding the broad principle that in terms of the applicable rules, claim can be raised for pension and not increment for the period of Second National Emergency in case petitioner/s had not been appointed during this period. It has not been held by the Division Bench therein that petitioner would be entitled to benefit of pension dehors the specific provision as above.

5. Feeling aggrieved from the said dis-affirmative order, the petitioner-appellant has filed thereagainst the instant appeal before this Court.

Grounds of Appeal.

6. The petitioner performed his duty in Air Force as an Equipment Assistant during the 2nd National Emergency from 03.12.1971 to 26.03.1977 and was discharged from Air Force on 30.11.1984, thereupon, the petitioner claims that he becomes entitled for the grant of the benefits as became envisaged in the relevant rules, rules whereof become extracted hereinafter.

Punjab Recruitment of Ex-Servicemen Rules, 1982

“8-B. Increments and pension – Period of military service rendered during the Second National Emergency

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from 3rd December, 1971 to 25th March, 1977, shall count for increments and pension as under :-

*(a) **Increments** - The increments for the aforesaid service shall be paid to those persons only, who rendered service during the aforementioned period. This benefit will, however, be given only at the time of making first appointment on regular basis on a civil post or service under the Government. However, these increments will be taken into account when the pay of a person is subsequently fixed on account of his promotion, selection, new recruitment or revision of pay scale or otherwise;*

*(b) **Pension** - The period of military service, referred to above, shall count towards pension only in case of an appointment to a permanent post under the Government, subject to the following conditions namely:-*

(i) The person concerned should not have earned a pension under military rules in respect of the military service in question;

(ii) Any bonus or gratuity paid in respect of military service by the defence authorities shall have to be refunded to the State Government, and;

(iii) The period, if any, between the date of discharge from military service and the date of appointment to any service or post under the Government shall count for pension, provided such period does not exceed one year. Any period exceeding one year but not exceeding three years may also be allowed to count for pension in exceptional cases under the orders of the Government.

7. The said rules state that the rendition of military service during the Second National Emergency from 03.12.1971 to 25.03.1977 shall count for increments and pension. However, the supra endowment(s) as made thereunder(s), especially towards pension is made subject to the person concerned not earning pension under the military rules in respect of the rendered military service. Therefore, for the petitioner becoming entitled for the endowment vis-a-vis him of pension, as envisaged in the Rules (supra), but after the period of military service rendered by him during the national emergency (supra) being also counted, therebys, he was required to adduce evidence, that he in terms of the above extracted underlined Sub Clause (i) of clause

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(b) of Rule 8-B of the 1982 Rules, rather had not earned pension for the rendered military service, even if the said rendered service became so rendered during the period of the Second National Emergency.

8. Therefore, unless the validity or the vires of the said Rules became successfully challenged, thereupon, the supra underlined condition relating to endowment(s) of pensionary benefits, thus through the counting of the rendered military service, during the Second National Emergency from 03.12.1971 to 25.03.1977, rather does necessarily apply with the fullest effect qua the petitioner concerned. Resultantly if the present petitioner, had earned pension for his rendered military service, thus covering even the phase of the Second National Emergency. Therefore, unless he was not receiving pension for the said rendered period of military service, therebys alone, he became entitled for the said period of service becoming counted for his earning pensionary benefits, upon, his becoming appointed against a civil post besides obviously his superannuating therefrom.

9. In other words, if the petitioner had become endowed the benefits of pension for the said term of military service, therebys, as expostulated in the supra underlined (supra) Rules, he became barred to claim that the said period of service be counted towards the fixation of pension for the subsequent term of his civil employment. Moreover, the supra underlined Rules, thus sub serves a holistic purpose, inasmuch as, it erases all the ill effects of the defence personnel concerned becoming endowed with dual pensionary benefits, inasmuch as, despite his receiving pension for the supra period, his yet espousing that the period

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of service (supra) be again counted for the purpose of computing pension for the term of his service against a civil post.

10. Therefore, since in the instant case, evidently the petitioner was the recipient of pension for the previously rendered military service by him, which also covered the phase (supra), thereby, he became dis-entitled to claim that the said period of service be re-counted for the fixation of his pension, upon, his superannuating from the civil post.

Final Order of this Court.

11. In aftermath, this Court finds no merit in the appeal and with the observation(s) aforesaid, the same is dismissed.

12. The impugned order, as passed by the learned Single Judge is maintained and affirmed.

13. Since the main case itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

13.11.2024
kavneet singh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No